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## Chapter 1

# Legitimacy, Democracy and RIOs: Where is the Gap?

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### Introduction: A Gap?

In the 1990s, a 'new wave of regionalism' rolled over the world and has developed to such an extent that virtually every state in the world is now member of some regional organization or agreement (Breslin et al. 2002). New regional organizations were created and existing ones were revived and enlarged. These regional integration organizations (RIOs) were heralded as the building blocks of a new global order which would be characterized by prosperity thanks to trade liberalization, and by peace thanks to democratization. RIOs would reduce the legitimacy gap which had resulted from processes of regionalization and globalization. RIOs would re-democratize politics.

Have RIOs lived up to these expectations? In the intervening years, several events have cast doubt on their capacity to do so. Regional cooperation was unable to offer a powerful solution to the financial and economic crises that rocked Southeast Asia and Latin America in 1998. Regional cooperation had no answer to increasing ethnic violence and terrorist attacks in Africa and South Asia. And in addition, RIOs were not perceived as democratizing agents but, on the contrary, as bulwarks for elitist policy making in the interest of some happy few. Even the European Union, which can be credited for five decades of prosperity and peace in Western Europe and for housing the world's only directly elected supranational parliament, continues to suffer from a legitimacy problem. In direct elections to its European Parliament in June 2004 there was an extremely low turn-out, especially in its new member states in Central and Eastern Europe. One year later, French and Dutch 'no' votes in the referendum on a proposed Constitution for the EU made it clear that a majority of the people in these countries disapproved of further integration of this kind. Does this mean that RIOs do not, in fact, reduce the 'legitimacy gap', but rather widen it? How should we judge their contribution to a legitimate and democratic world order?

These questions have not been answered satisfactorily yet. Research on regional cooperation used to focus on the explanation of the consecutive successes and failures of economic integration (see for instance Axline 1994; Mansfield and Milner 1997; Mattli 1999). The *New Regionalism Approaches* have explained regional integration predominantly in terms of its success (or failure) as an answer to economic globalization (see Bøås, Marchand and Shaw 2005; Breslin et al. 2002; Fawcett and Hurrell 2000; Hettne, Inotai and Sunkel 1999; Laursen 2003; Schirm 2002; Söderbaum and Shaw 2003). Surely, economic success constitutes an important

aspect of legitimacy, more precisely of ‘output legitimacy’ as Fritz Scharpf (1999) calls it, and some argue that this is the only aspect of legitimacy to be found at the regional level. Yet, we shall argue that this is too limited a view.

Other studies focus on democracy and legitimacy at the global level. The “Battle of Seattle” in 1999, when non-state actors representing a wide spectrum of causes joined in mass protests against the WTO, sparked off a stream of literature on transnational civil society and global governance (see Coicaud and Heiskanen 2001; Held and Koenig 2005; Scholte 2002; Zweifel 2006). This literature investigates the legitimacy gap in relation to global and functional international organizations. However, regional organizations differ from global and functional organizations in important respects, both on the ‘demand-side’ – as regards the high expectations citizens have in terms of regional development, security, employment – and on the ‘supply-side’, as regional integration is ‘multidimensional’, including economic, political, social and cultural aspects. For that reason, the issue of legitimacy and regional governance deserves special attention, as also Jon Pevehouse argues (Pevehouse 2002; Pevehouse 2005). He focuses specifically on the issue of whether RIOs contribute to the success or failure of domestic transitions to democracy, showing how regional organizations influence the cost-benefit calculations of domestic actors. He does not discuss democracy within regional governance or the legitimacy of RIOs in a wider sense, but his argument will serve as a starting point for the chapters in the last part of this book.

Of course, there is a wealth of literature on the European Union (EU) and its alleged democratic deficit. Much of the literature, however, lacks a comparative perspective, considering the EU as *sui generis*, a unique phenomenon, and is therefore unable to explain and interpret developments in other regional organizations. The ideas about the EU, legitimacy and democracy put forward by Philippe Schmitter (2003) and Fritz Scharpf (1999), however, have been used as stepping stones for further conceptualization, adapted to non-European regional organizations.

This volume thus borrows insights from various strands of work on regionalism, global governance, transnational civil society and domestic democracy in order to answer the question of whether RIOs make the gap between governing elites and their constituencies – which has resulted from processes of regionalization and globalization – wider or smaller. Opinions on this question differ and contradict each other. *Some* argue that RIOs have put the citizenry at a distance, widening the gap between governments and the governed. *Others* hold that RIOs have enabled the mobilization and development of a transnational civil society which may replace or supplement forms of domestic participation and control (Scholte 2002). *Some* hold that regional governance makes for elite policy making and suffers from a ‘democratic deficit’. *Others*, meanwhile, see evidence that regional organizations contribute to a just global order and the realization of democratic values and rule of law both within and beyond states (Pevehouse 2005). It is not our aim to elaborate a ‘user’s guide’, setting out how RIOs should be made more democratic and regional governance more legitimate. We do not argue that RIOs are the ‘good guys’, serving the interests of humanity, or the ‘bad guys’ for failing to fulfil such expectations. The issue, for us, is to investigate the meanings of legitimacy and democracy in a non-national political system. We shall explore the issue from different angles, not focusing on a

single RIO but assessing and explaining similarities and differences between RIOs in terms of legitimacy and democracy. This will include the presence of mechanisms which can influence legitimacy at the regional level; the quality of participatory arrangements involving supranational parliamentary actors, subnational state actors and transnational non-state actors; and also the willingness of RIOs to intervene and preserve democracy in their member states.

## Key Concepts

Among observers there seems to be a consensus that there ‘is still no consensus on the main concepts in the study of regionalism’ (Söderbaum and Van Langenhove 2006, 9). In this section, we shall present the definitions of the key concepts which have guided the authors of this volume. In several chapters, the authors will further elaborate or refine these definitions.

### *Regionalization, Regionalism, RIOs, Region*

Cooperation between states takes many different forms, ranging from global agreements to security alliances, customs unions and common markets. Regional cooperation or regionalism differs from regionalization. The latter ‘defines a trade-driven, bottom-up process of intensifying interactions and transactions of private economic and other non-state actors, especially business firms, which leads to increased interdependencies between geographically adjacent states, societies and economies’ (Hänggi et al. 2006, 4). By regionalism we refer to the process of state actors, belonging to a certain region and reaching agreements cross-nationally. As opposed to ‘bottom-up’ regionalization, which is a primarily economic process, regionalism is a ‘top-down’ political process, ‘a conscious policy of nation states for the management of regionalization and a broad array of security and economic challenges’ (Hänggi et al. 2006, 4). States are the central actors from a formal point of view, concluding the agreements which are binding upon all the other actors involved, but this does not imply that state actors are the sole players.

Non-state actors such as business, think tanks and civil society organizations play a role in regional policy making, for instance in the form of ‘track-two diplomacy’ aimed at resolving conflicts between and within states through unofficial contacts and interactions (Caballero-Anthony 2005, 158). In this volume, the concept of state actors refers to the government at the national level as well as to subnational actors, such as state governments in federal states and the governmental representatives of cities and municipalities. The category of non-state actors encompasses actors often referred to as ‘civil society’ and non-governmental organizations, trade unions, but also private interest groups such as business associations. They are often thought to offer a potential remedy for the lack of parliamentary control at the regional level, but of course the fundamental difference with parliamentarians is that none of these actors is directly elected and thus they all represent specific interests without being directly accountable to those whose interests they represent. Part Four of this volume

will further investigate the role of non-state actors in RIOs and their potential role in widening or closing the 'legitimacy gap'.

Regional integration organizations (RIOs) are thus formal institutions which are capable of 'purposive action like raising and spending money, promulgating policies, and making discretionary choices' (Keohane 1989, 175). RIOs all differ in their institutional set-up: they can be purely or partially intergovernmental, and have institutionalized decision making along more or less supranational lines. In spite of these differences, RIOs may be distinguished from other forms of international cooperation in terms of three aspects: territoriality, identity and scope.

First, there is the aspect of territoriality. RIOs are composed of states belonging to a region. For that reason, RIOs have a restricted membership, requiring candidate members to be located within a certain geographical area. This territorial aspect makes them a specific kind of international organization, distinguishing them from global or functional organizations. It also begs the question of how to define a region – or: how do we know a region when we see one? A region presupposes some geographical coherence, but geography alone does not determine what a region is. The Pyrenees and the Alps, for instance, with many summits reaching over 3000 metres above sea level, are expensive obstacles to the free movement of goods and people, but they do not constitute the southern borders of the region of *Europe*. The region of Southeast Asia is composed of island states and of continental states, in spite of 'the stopping power of water' (cf. Mearsheimer 2001, 114–27). From these examples, it follows that 'natural' borders are not given and natural, but constructed and geopolitical (see Katzenstein 2005, 6–13). Geography is one necessary, but not a sufficient, condition for a group of states to constitute a region. For that reason, territoriality and identity, the first and second aspects defining an RIO, cannot be considered separately.

The second aspect is identity. RIOs often refer to a common identity based on the shared history of this territorial entity. To be member of a region, a nation must share this identity, based on some combination of cultural, economic, linguistic, or political ties (see Mansfield and Milner 1999, 591). The members of a region define and redefine themselves. Identity is intersubjective, as it expresses not only the meaning an actor attributes to the Self, but also the meaning which the Other attributes to the Self. In order to label a geographical area a *region*, some consensus about the self-definition of the region is required, as well as external recognition of the area as a region.<sup>1</sup> This shared regional identity is institutionalized in the founding documents of an RIO and its conditions for membership, enabling an RIO to exclude certain countries and include others. These constructed territorial and identity aspects make RIOs a specific kind of international organization, distinguishing them from organizations with potentially a global membership such as the UN.

Thirdly, RIOs have a potentially broad mission which evolves from a limited set of tasks to a more encompassing role, as opposed to functional international organizations which focus on a specific policy area, such as health (WHO), food (FAO), security (NATO) or labour relations (ILO). This also sets them apart from bilateral preferential trading arrangements and free trade areas, which eliminate

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1 We thank Andrea Ruggieri for pointing this out to us.

internal trade barriers (negative integration) but do not aim at any further steps implying positive integration.

These specific aspects do *not* suggest that we conceive of RIOs as entities which are or will become state-like actors. An RIO is not a supra-state actor but an inter-state political system. It derives its power and weakness from precisely this status, being as strong as its constituent parts will accept. Even the European Union, the most institutionalized RIO, is clearly not a state since it lacks sovereignty, the crucial feature defining a political collective as a *state*. The EU ‘does not claim a sovereign status and is not recognized as sovereign state by the other members of international society’ (Werner and De Wilde 2001, 303) – nor by its citizens. Member states ‘have handed over powers to a degree unprecedented in the history of international organizations’ (Werner and De Wilde 2001, 302), but those states continue to claim their sovereignty before domestic and international audiences and those claims continue to be recognized. This has an impact on our discussion of legitimacy and democracy, as it implies that the regional level complements rather than replaces the national level, which remains a locus of political representation, checks and balances.

### *Legitimacy and democracy: why bother?*

Studies on legitimacy classically concentrate on the ideal relationship between the nation state and domestic civil society. The processes of regionalism force us, however, to reconsider this relationship and include another level of analysis. Building on Scharpf (1999), we elaborate a ‘non-national’ definition of legitimacy, based on the premise that legitimate governance is responsive (input legitimacy), is accountable (control legitimacy) and provides effective solutions (output legitimacy) in order to merit the trust of its citizens. Democracy is understood here as a political system in which ‘governors are answerable to the governed for their actions and omissions’ (Scholte 2004, 211). Tholen and Erthal offer a further elaboration of these concepts, applied to regional integration organizations (Tholen, Chapter 2; Erthal, Chapter 3).

If RIOs are not state-like entities, and if we do not expect them to develop into states, why then worry about issues of legitimacy and democracy? Zweifel, for instance, argues that the idea of an ‘international state’ is indispensable for being able to apply the concept of democracy to the global level (Zweifel 2006, 13). From this, it would follow that we need to think in terms of a ‘regional state’, for our efforts to make sense. We have just pointed out, however, that we do not conceive of RIOs as regional states. Tholen and Erthal will return to the question how one may conceive of democracy and legitimacy in non-state contexts, showing that Zweifel’s preoccupation with an ‘international state’ is unnecessary if one abstracts from form and focuses on function (Tholen, Chapter 2; Erthal, Chapter 3).

Still, there are at least two apparently good reasons to dismiss the whole issue of regional democracy and legitimacy as irrelevant. First, while RIOs may be missing many aspects of democracy that are present in most modern states, one could argue that this is of no importance as the lack of civic participation is easily compensated for by the benefits of regional cooperation such as peace and prosperity.

*Output legitimacy* compensates for the lack of *input legitimacy*. Secondly, one could argue that what is important is democracy at member-state level. It is here that the preconditions for democracy exist (shared understandings and a *demos*) and democracy is institutionalized. The national parliament is entitled to approve decisions taken at the regional level, so if democracy functions properly at member state level, there is no need for ‘regional democracy’.

On closer inspection, there are weaknesses in both arguments. The first statement presupposes that one aspect of legitimacy is reducible to other aspects. At the normative level, we do not find support for this as different aspects of legitimacy are considered complementary to each other, each of them being a necessary – though not sufficient – condition for legitimate decision making. From a sociological perspective, the argument would mean that citizens support regional cooperation only as long as they perceive clear benefits from it. As soon as times get tough, there is no longer any reason to comply with regional policies.

The second statement presupposes that institutionalized regional cooperation does not affect domestic democracy. It ignores the possibility that domestic democracy might suffer if decision making is shifted to a higher level which, for lack of resources and information, it cannot control in the same way as it controls national-level decision making. For instance, national parliaments are usually able to block the ratification of a regional agreement, but they are not involved in preceding phases of regional policy making and have no power to amend the agreement reached. In general, all social systems need some mechanism which gives them legitimacy, in the sense that it makes them acceptable and valid, susceptible to public consent. A social system which lacks legitimacy would, it is supposed, degenerate into a dysfunctional system, characterized by abuses of power. For these reasons, we hold that the issue of democracy, legitimacy and regional governance warrants further attention.

## **Key Questions and Outline of the Volume**

### *Key questions*

This volume focuses on a set of interrelated questions in order to clarify the connections between regional governance, legitimacy and democracy. Regional integration has created a system of governance in which policy making no longer takes place solely at the national and sub-national levels, but has also shifted to a higher level. This shift is generally perceived as a ‘rescue of the nation-state’ – to borrow Alan Milward’s famous expression (Milward 1992) – in a globalizing world as well as a cause of a legitimacy deficit, putting the citizenry at a distance.

We assume that this shift affects the positions of actors in the national, sub-national and international political arenas and the extent to which non-state actors, subnational state actors and parliamentary actors influence decision making and control executive power. Yet, we need to say more about these shifts in positions and capabilities if we are to detect patterns, formulate explanations and analyze whether RIOs ‘widen the gap’ between policy makers and citizenry or whether they ‘reduce



the gap' – and under which conditions they have the potential to do so. From these aims, the following questions have been derived:

1. Given the 'state-oriented' concepts of legitimacy and democracy, what do the concepts of *legitimacy* and *democracy* mean in non-national political systems such as regional integration organizations?
2. To what extent do RIOs display *input legitimacy*, *control legitimacy* and *output legitimacy*?
3. To what extent do regional parliaments and subnational state actors contribute to closing the *legitimacy/democracy gap*?
4. To what extent do non-state actors (civil society) contribute to closing the *legitimacy/democracy gap*?
5. Do RIOs display output legitimacy in the sense that they strengthen democracy in their member states?

These questions are dealt with in the different Parts of this volume, as will be set out in the next section.

### *Outline of the volume*

After the introductory first part, the second part of the book will aim to clarify the key concepts and answer the question of the conceptualization of legitimacy and democracy in non-national political systems and the question of to what extent RIOs display input legitimacy, control legitimacy and output legitimacy.

### *Part Two*

In *Chapter 2*, Berry Tholen argues that a normative debate is taking place between those who consider RIOs as a contributing factor in the legitimacy deficit which characterizes the processes of policy making at the global level, and others who welcome RIOs as a way to strengthen legitimacy. As these two camps disagree on the way the present situation ought to be assessed, they also differ on the most desirable way forward. Tholen claims that part of the debate is caused by differing interpretations of the concepts of legitimacy and democracy. Elaborating on work done by Fritz Scharpf, he develops a clear articulation of legitimacy, distinguishing between input, control and output legitimacy, and rethinking the concepts in order to fit regional governance. Tholen points out, furthermore, that in judging the functioning of RIOs, their position within a desirable world order should be taken into account.

In *Chapter 3*, Juliana Erthal discusses the relevance of the concept of regional democracy. She takes the attributes of democracy, as identified by Robert Dahl, as a point of departure and elaborates these to fit RIOs. Next, Erthal investigates to what extent the quality of democracy in RIOs is constrained by the varying quality of democracy in their member states. She illustrates the argument with an assessment of regional democracy in the seven RIOs investigated more extensively in the other chapters of this volume.



In *Chapter 4*, Bob Reinalda identifies the characteristics of RIOs which may be relevant to the different aspects of input, control and output legitimacy. He first traces the development of regional cooperation, focusing on the economic regionalism of the post-Second World War period. Next, two different perspectives in IR theorizing on RIOs and their contribution to legitimacy are presented: a sceptical view and an accountability view. In order to investigate the validity of these conflicting views, Reinalda develops a set of indicators for different aspects of legitimacy and compares 31 regional integration organizations all over the world. His analysis enables him to confirm the accountability view and to argue that the sceptical view on legitimacy in RIOs is disputable.

### *Part Three*

The chapters in this part analyse the effects of institutions created by state actors to reduce alleged democratic deficits – institutions such as regional parliamentary bodies – and explore the changing role of sub-national state actors in RIOs decision making. They also aim at explaining the similarities and differences between RIOs as regards the quality of regional democracy.

In *Chapter 5*, Andrés Malamud and Luís de Sousa trace the development of five regional parliaments: the European Parliament, the Parlatino, the Parlacen (SICA), the Parlandino (CAN) and the Parlasur (Mercosur). They assess the contribution of these parliaments to regional representation (and thus to input legitimacy), decision making (output legitimacy) and the monitoring of the executive branch and the bureaucracy (control legitimacy). On the basis of this comparison, they identify a set of factors which offer a plausible account of the differences between these parliaments.

In *Chapter 6*, Marcelo Medeiros investigates how governance has been changing in the Mercosur integration process, focusing on the relationship between the regional, national and sub-national levels. He shows how the inclusion of the subnational level (cities, border regions, provinces and the like) influences democratic interactions between and within the levels. The chapter highlights the incipient rise of *constituent diplomacy* by subnational state actors, which could provide a bridge between citizen, state and regional integration organization.

### *Part Four*

The chapters in this part explore the potential role of non-state actors in remedying the loss of democracy and legitimacy resulting from regionalization and regionalism. As legitimacy concerns functions that have to be fulfilled, it is not only elected parliamentarians or sub-national state actors which contribute to it. What is needed is a fundamental understanding of the possible and necessary forms of the involvement of non-state actors to complement the traditional concept of representative democracy. These observations lead us to the following empirical questions: which roles do non-state actors actually fulfil within different RIOs, and what influence do they have in terms of input, control and output legitimacy? And which factors explain their influence or lack of it?

In *Chapter 7*, Michelle Ratton Sanchez explores the participation of non-state actors in Mercosur. She traces the development of institutional participatory mechanisms in Mercosur. Next, she assesses whether these mechanisms have empowered non-state actors, enabling them to increase the input and control legitimacy of Mercosur policy making. Ratton Sanchez clarifies the imperfections in the organizational structure of Mercosur and its functioning.

In *Chapter 8*, Gerda van Roozendaal explores the conditions under which non-state actors are able to contribute to the input and control aspects of legitimacy in Caricom, a regional organization in the Caribbean. She looks at the processes through which non-state actors become involved, as well as at the nature of the actors themselves. The chapter includes a study of Barbados, a major Caricom member state, since influence is not only exercised at the level of Caricom itself, but also at the national level.

### *Part Five*

This part addresses the question of whether RIOs strengthen democracy in their member states and thus acquire output legitimacy. In *Chapter 3*, Erthal explores the relationship between the quality of democracy at the nation-state level and the quality of regional democracy. Chapters 9 and 10 investigate the role of RIOs in promoting and preserving democracy in their member states, especially in instances where democratic values are violated. Under which conditions are RIOs willing to intervene in the domestic affairs of their member states? And, what are the effects of such interventions on the quality of democracy in the member states?

In *Chapter 9*, Anna van der Vleuten examines under which conditions RIOs intervene in the domestic affairs of their member states. By applying different IR theories, different expectations may be formed concerning RIO behaviour in cases where democratic values are violated in a member state. Van der Vleuten tests these expectations by examining two RIOs: the Southern African Development Community (SADC) and the Association of Southeast Asian Nations (ASEAN).

In *Chapter 10*, Andrea Ribeiro Hoffmann explains the institutionalization process of political conditionality in the European Union and Mercosur. Next, she assesses the functioning of the democratic clause of these RIOs in an evaluation of domestic political developments in Paraguay and Austria. She explains to what extent the RIOs involved succeeded in securing democracy in these countries.

### *Part Six*

The final part deals with the five key questions and their interrelationship. In *Chapter 11*, the editors summarize the results obtained in the different chapters. They show how the answers formulated by the authors in this volume contribute to a better understanding of the relationship between regional governance, legitimacy and democracy. This enables us to formulate a first, cautious answer to the main question: do we have reason to believe that RIOs reduce the gap between citizens and policy makers, or, rather, do RIOs widen that gap?

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